

BEFORE
THE PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA
DOCKET NO. 2016-384-S – ORDER NO. 2018-__

JUNE __, 2018

IN RE: Application of Moore Sewer, Inc. for)	PROPOSED
Adjustment of Rates and Charges and)	ORDER RULING ON
Modification to Certain Terms and)	APPLICATION FOR
Conditions for the Provision of Collection-)	ADJUSTMENTS IN RATES
Only Sewer Service)	

I. INTRODUCTION

This matter is before the Public Service Commission of South Carolina (the “Commission”) on the application (“Application”) of Moore Sewer, Inc. (“Moore Sewer” the “Company,” or “Applicant”) filed on December 20, 2017, seeking rate relief and approval of a new schedule of rates and charges (the “Proposed Rates”) for the monthly sewerage collection service that Applicant provides to its customers within its authorized service area in South Carolina. In the Application, Moore Sewer also sought to modify certain non-recurring charges. The Application was filed pursuant to S.C. Code Ann. Section 58-5-240 (Supp. 2015) and 10 S.C. Code Ann. Regs. 103.512.4.A (2015).

The Application proposes a historical test year consisting of the twelve-month period ending December 31, 2016.

Moore Sewer’s current rates were established by Commission Order No. 2003-477 dated August 5, 2003, in Docket No. 2003-41-S. In that case, the Commission approved a collection-only rate of \$20.88 for residential customers.

The South Carolina Office of Regulatory Staff (“ORS”) was a party of record in the case pursuant to S.C. Code Ann. § 58-4-10(B) (2015).

II. PROCEEDINGS

The Commission’s Docketing Department instructed the Applicant to publish a prepared Notice of Filing, one time, in newspapers of general circulation in the area affected by Moore Sewer’s Application. The Notice of Filing described the nature of the Application and advised all interested persons desiring to participate in the scheduled proceedings of the manner and time in which to file appropriate pleadings for inclusion in the proceedings as a party of record. The Commission also instructed Moore Sewer to notify each affected customer by mailing or, where the customer had previously agreed to electronic notice, by e-mailing each customer a copy of the Notice of Filing. On February 23, 2018 Moore Sewer filed an Affidavit of Publication and Mailing demonstrating that the Notice of Filing had been duly published and provided to all customers.

The Commission received several requests from members of the public to schedule a public night hearing at a convenient time and location for customers of Moore Sewer to present their comments regarding the service and rates of Moore Sewer. In response, the Commission held a public night hearing. Pursuant to Order No. 2018-206, a public hearing was set and noticed by the Commission. On April 6, 2018, Applicant filed an affidavit certifying that it had provided notice of the date, time and location of the night public hearing via First Class mail.

The Commission held a hearing on the Application on May 3, 2018 beginning at 6:00 pm at the Commission Hearing Room located in Spartanburg, South Carolina. The Applicant was

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represented by John J. Pringle, Jr., Esquire. ORS was represented by C. Lessie Hammonds, Esquire, and Jenny R. Pittman, Esquire.

Applicant presented the testimony of Janet Teichman (direct and rebuttal testimony), shareholder and manager of Moore Sewer's wastewater collection operations. Ms. Teichman testified about Moore Sewer's operations and the need for an increase in the monthly sewer service charge.

ORS presented the testimony of Daniel F. Sullivan (direct and surrebuttal), Deputy Director of the ORS Audit Department, and Anthony M. Sandonato (direct and surrebuttal), Regulatory Analyst of the ORS Utility Rates and Services Division. Mr. Sullivan's testimony described ORS's examinations of the application and Applicant's books and records as well as the subsequent accounting and pro forma adjustments recommended by ORS. Mr. Sandonato's testimony focused on the Applicant's compliance with Commission rules and regulations, test-year and proposed revenue, and performance bond requirements.

Several Moore Sewer customers also testified at the night public hearing regarding the service and rates of Moore Sewer.

III. REVIEW OF THE EVIDENCE AND EVIDENTIARY CONCLUSIONS

Standards and Required Findings

Moore Sewer's Application was filed pursuant to S.C. Code Ann. Sections 58-5-210 and 58-5-240 and 10 S.C. Code Ann. Regs. 103.512.4.A and 103-105. In considering the Application, the Commission must ascertain and fix just and reasonable rates, standards, classifications, regulations, practices, and measurements of service to be furnished. Thus, the

Commission must give due consideration to the Company's total revenue requirements and review the operating revenues and operating expenses of Moore Sewer to establish adequate and reasonable levels of revenues and expenses. The Commission will consider a fair rate of return for Moore Sewer based on the record and any authorized increase in revenue and rates must be just and reasonable and free of undue discrimination.

After discussion of the positions of the parties, the Commission reaches the legal and factual conclusions below based on its review of the facts and evidence of record.

The evidence supporting the Applicant's business and legal status is contained in the Application filed by Moore Sewer, the testimony filed in this Docket, and in prior Commission Orders in the docket files of the Commission, of which the Commission takes judicial notice. This finding of fact is informational, procedural and jurisdictional in nature, and the matters which it involves are not contested by any party.

Need for Proposed Rate Adjustments

In its Application, Moore Sewer asserts a net loss of (\$47,877.04) for its fiscal year 2016. Application, Exhibit B, Schedule B – "Moore Sewer, Inc. Income Statement-Per Books". Janet Teichman, Owner and Manager of Moore Sewer, appeared at the hearing and testified on behalf of Moore Sewer. Mrs. Teichman testified it had been more than 14 years since the Company's last rate case. Teichman Direct, p. 4, ll. 11-12 and Hearing Testimony. Mrs. Teichman also explained that the utility's expenses have increased substantially since the last rate case (Teichman Direct, p. 4, ll. 14-15), and that Moore Sewer is in need of rate relief to increase operating revenue to maintain the financial soundness of the utility. Teichman Direct, p. 8, ll. 9-15, and Hearing Testimony.

Test Year

A rate application is required to contain a proposed test year. *See*, 10 S.C. Code Ann. Regs. 103-512.4.A(4) (2015). Moore Sewer utilized a historic test year – the twelve months ending December 31, 2016 with adjustments. ORS accepted the 2016 historical test year proposed by Moore Sewer.

A fundamental principle of the ratemaking process is the establishment of a historical test year as the basis for calculating a utility's operating margin or, in this case, a return on rate base, and, consequently, the amount of the utility's requested rate increase. In order to determine what a utility's expense and revenues are for purposes of determining the reasonableness of proposed rates, one must select a 'test year' for the measurement of the expenses and revenues. *Heater of Seabrook v. Public Service Commission of South Carolina*, 324 S.C. 56, 478 S.E.2d 826, 828 n.1 (1996). While the Commission considers a utility's proposed rate increase based upon occurrences within the test year, the Commission will also consider adjustments for any known and measurable out-of-test year changes in expenses, revenues, and capital investments, and will also consider adjustments for any unusual situations which occurred in the test year. Where an unusual situation exists which shows that the test year amounts are atypical, the Commission should adjust the test year data. *See Southern Bell v. The Public Service Commission*, 270 S.C. 590, 244 S.E. 2d 278 (1978); *see also, Parker v. South Carolina Public Service Commission*, 280 S.C. 310, 313 S.E.2d 290 (1984), *citing City of Pittsburgh v. Pennsylvania Public Utility Commission*, 187 P.A. Super. 341, 144 A.2d 648 (1958); *Southern Bell v. The Public Service Commission*, 270 S.C. 590, 244 S.E.2d 278 (1978). Based on the information available to the Commission and that all parties agreed to a 2016 test year, the Commission is of the opinion, and

therefore concludes, that the test year ending December 31, 2016 is appropriate for the purposes of this rate adjustment request.

Operating Margin

The Commission will use operating margin as the basis for setting rates in this proceeding. The parties did not present evidence on a capital structure for the Company or what would constitute a fair return on equity or return on rate base. The parties did present evidence on the revenues and expenses of the Company and provided operating margins for the Company on per books, as adjusted after accounting and pro forma adjustments, and after the proposed increase. Operating margin is determined by dividing net operating income by the total operating revenue of the utility. *Heater of Seabrook, Inc. v. Public Serv. Comm’n*, 332 S.C. 20, 503 S.E.2d 739 (1998). This Commission has previously held that rates for Moore Sewer would be determined using operating margin. *See*, Commission Order No. 2003-477, dated August 5, 2003 (“There is no statutory authority prescribing the method which this Commission must utilize to determine the lawfulness of a public utility. For a sewer utility whose rate base has been substantially reduced by customer donations, tap fees, contributions in aid of construction, and book value in excess of investment, the Commission may decide to use the “operating ratio” and/or “operating margin method” for determining just and reasonable rates. ... The Commission concludes that the use of operating margin is appropriate in this case.”) As the parties have neither requested use of another method nor provided evidence to support use of a method other than the operating margin method, the Commission finds it appropriate to utilize operating margin in determining appropriate rates for Moore Sewer in the present case.

ORS’s Review of the Application

In examining Moore Sewer's Application, ORS verified that the operating experience reported by the Company was supported by the Company's accounting books and records for the test year. Sullivan Direct, p.2. ORS then tested the underlying transactions in the books and records for the test year to ensure the transactions were adequately supported, had a stated business purpose, were allowable for ratemaking purposes, and were properly recorded. *Id.* ORS reviewed Moore Sewer's revenue calculations for the test year and used Moore Sewer's current and proposed rates for each calculation. Consistent with its view of generally accepted regulatory principles and prior Commission orders, ORS adjusted the revenues, expenditures, and capital investments to normalize the Company's operating experience and operating margin. *Id.* The effect of ORS's accounting and pro forma adjustments increased test year per book operating revenues by \$30,128 and reduced test year per book operating expenses by \$17,049. (Audit Exhibit DFS-7, as adjusted). ORS's calculation of Moore Sewer's proposed rates resulted in an increase in operating revenues of \$36,308. (Audit Exhibit DFS-7, as adjusted).

Accounting and Pro Forma Adjustments

The Commission adopts those adjustments with which no party disagreed as just and reasonable, and proceeds below to consider those adjustments upon which the parties could not agree. Moore Sewer accepted most of the adjustments made by the ORS. The parties differed on expenses for Rent and Interest Expense, and a proper operating margin.

Rent

Moore Sewer proposed rent expense of \$34,350. (Application). The ORS removed \$19,200 due to lack of support documentation (Sullivan Direct p. 8, ll. 17-22), an adjustment to which Moore Sewer did not object. In addition, ORS recommended annual test year rent expense

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of \$3,720 based upon multiplying rental square footage of 254 square feet by an average price per square foot of \$1.22. Sullivan Direct p. 8, ll. 11-16. The ORS rent calculation reduced Moore Sewer's rent calculation (annual rent expense of \$15,330) by an additional \$11,610. In her Rebuttal Testimony, Mrs. Teichman explained that the Company's calculation of rent was reasonable due to the fact that Moore Sewer would not be able to find suitable space in the amount the Company needed at the price suggested by the ORS. Teichman Rebuttal p. 2, ll. 1-9. Similarly, Mrs. Teichman explained that the common areas, storage, and outside storage afforded by the Company's current arrangement could not be obtained comparably at the rate suggested by the ORS. (Hearing Testimony).

Commission Decision

We agree with Moore Sewer that the rental rate utilized by the Company is reasonable. While the rental price of \$5.03 per square foot paid by Moore Sewer is higher than the per square foot prices found in the surrounding area, we find persuasive Ms. Teichman's testimony regarding not only the specific needs of Moore Sewer with respect to the space it occupies (common areas, inside and outside storage), but the fact that Moore Sewer could utilize additional space on the property if necessary or advisable. In addition, it is clear that there are a number of efficiencies that inure to the benefit of Moore Sewer by virtue of having its corporate office located where its sole owners reside, and in close proximity to its service areas.

Interest Expense

The Company proposed interest in the amount of \$18,115, representing 3% annual interest on a note payable in the amount of \$41,510 owed to Mr. William Teichman (a shareholder of Moore Sewer), and a note payable in the amount of \$562,309 owed to Operation

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Drains, Inc. (an inactive company also owed by Mr. Teichman). Sullivan Direct p. 12, ll. 5-9. ORS proposed to disallow the interest because the Company has not paid for the services represented by the notes and the Company has not made payments on the loans. In response, Mrs. Teichman pointed out that the Company's financial position has made it impossible to make payments on the notes, given the other obligations owed by the Company. Teichman Rebuttal p. 2, ll. 13-23.

Commission Decision

While ORS is correct that Moore Sewer has not paid for the services rendered to Operation Drains, or made payments on either note, there is no question both Operation Drains and Mr. Teichman provided numerous services to Moore Sewer that benefitted ratepayers and the system as a whole, such as "installation of elder valves, required maintenance and repairs, and services related to the closure of the lagoon." The Commission is familiar with the work and expense Moore Sewer was required to undertake in order to close its treatment lagoon as required by the South Carolina Department of Health and Environmental Control ('DHEC'). Had Operation Drains and Mr. Teichman been unwilling to provide the amount of services that they did without foregoing payment, the Company might not be solvent and providing service today. Put another way, creditors with more "arms-length" relationships to Moore Sewer most certainly would not have performed services without an immediate expectation of payment, and the result would not have benefitted the Company's customers. Accordingly, we conclude that the allowance of \$18,115 in interest expense under these circumstances is appropriate.

Additions and Changes to Non-Recurring Charges

The Application proposes to a) increase the New Customer Set-up Fee from \$10 to \$20; b) establish a New Customer Initiation of Service/Connection Fee of \$35; and c) establish a Damage/Tampering Charge not to exceed \$250. The ORS does not object to these non-recurring charges, and we hereby approve them as just and reasonable.

Partial Waiver of 10 S.C. Code Ann. Regs. 103-531.1(A)

Moore Sewer seeks to collect a flat rate of \$250.00 as a deposit from its customers. (Application). Accordingly, Applicant requests that the Commission waive that portion of 10 S.C. Code Ann. Regs. 103-531.1(A) that limits the “maximum deposit” to “an amount equal to an estimated two (2) months (60 days) bill for a new customer” or “an amount equal to the total actual bills of the highest two (2) consecutive months based on the experience of the preceding twelve (12) months” Id. According to Moore Sewer, a flat rate deposit of \$250 (and the corresponding waiver of a portion of 10 S.C. Code Ann. Regs. 103-531.1(A)) will assist Moore Sewer in minimizing the negative financial consequences of non-payment while ensuring that customers continue to receive reliable service.

As Mrs. Teichman testified, Moore Sewer is seeking to collect a higher deposit amount because Moore Sewer often has provided more than *three* months of service to a customer before the Company can lawfully disconnect service pursuant to Commission Rule 103-535.1. Teichman Direct, pp. 6-7. The unpaid debt of Moore Sewer customers in 2016 alone was \$7,686.82. Id.

ORS witness Sandonato did not object to the waiver sought by Moore Sewer, but recommended that the maximum deposit be sufficient to secure a customer’s account for

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a three-month period. Sandonato Direct, p. 6, ll. 18-20. In addition, the ORS recommended that Moore Sewer allow the deposit to be paid in installments, with an initial deposit payment of \$100.

We are convinced that a flat deposit fee of \$250 is appropriate, in view of Moore Sewer's history of dealing with customers who do not pay bills. In addition, we note that, as testified to by Ms. Teichman, Moore Sewer is obligated to pay bulk treatment charges to the Spartanburg Sanitary Sewer District (SSSD) even when Moore Sewer's customers receive those treatment services but do not pay those charges as passed through by Moore Sewer. Teichman Direct, pp. 5-6. Moreover, Mrs. Teichman testified that the amounts billed by SSSD can increase unexpectedly, and that Moore Sewer has very little control over those charges. Teichman Direct p.5, ll. 17-21. As a result, customers may owe large amounts to Moore Sewer by the time the Company may disconnect them. Of course, Moore Sewer is required to follow all other requirements of 10 S.C. Code Ann. Regs. 103-531.1(A), including maintaining deposit records, applying interest to deposit amounts, and deposit refunds. We also adopt the ORS recommendation that Moore Sewer collect this deposit amount in three monthly installments, with an initial deposit payment of \$100.

Performance Bond

Moore Sewer has a current performance bond for utility operations on file with the Commission in the amount of \$100,000. The surety on the performance bond is Janet A. Teichman and her Personal Financial Statement in accordance with 10 S.C. Code Ann. Regs. 103-512.3.1 and 103-712.3.1 is on file with the Commission. ORS recommended that Applicant

be required to increase the face amount of the bond to \$135,000. Applicant did not challenge the performance bond amount. Accordingly and pursuant to S.C. Code Ann. § 58-5-720 and 10 S.C. Code Ann. Regs. 103-512.3 and 103-712.3, the Commission requires that Applicant file and maintain a performance bond in the amount of \$135,000 for sewer operations.

The Commission finds, based on the testimony of Applicant and ORS, that an increase in rates is supported by the evidence presented. Applicant's last rate case was over 14 years ago as Moore Sewer's present rates were set by Commission Order No. 2003-477 issued on August 5, 2003. Operating expenses have increased significantly since the last rate case. (Teichman Direct, p. 4, ll. 14-15). Further, the Company has been operating at a loss. The following table indicates the Company's test year revenues and expenses after those accounting and pro forma adjustments we approve herein and the operating margin under the presently approved rates for the test year.

TABLE A

Total Operating Revenue	\$145,386
Total Operating Expenses	\$157,696
Less Interest Expense	\$18,115
Net Income (Loss) for Margin	(\$30,425)
Operating Margin	(20.30%)

After reviewing the evidence in this case, we approve a monthly rate of \$38.00 as shown on Order Attachment One, as well as the non-recurring rates shown therein. The calculated additional revenues from the monthly rate and the other approved charges are \$97,514. The resulting operating margin after the proposed rate increase is 23.86%. The Company's operating experience for the test year revealed a negative operating margin. The Company is entitled to an opportunity to earn a fair and reasonable return to allow it to provide sufficient service to its customers. The approved rates will permit the Company to cover operating costs and provide an opportunity for a positive operating margin. The following table illustrates the effect of the accounting and pro forma adjustments (including Moore Sewer's proposed rent and interest expense figures):

TABLE B

Total Operating Revenues	\$242,900
Total Operating Expenses	\$167,213
Net Operating Income (Loss)	\$75,687
Add: Customer Growth	\$395
Less Interest Expense	\$18,115
Net Income (Loss) for Margin	\$57,967

Operating Margin	23.86%
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IV. FINDINGS OF FACT

1. Moore Sewer is a sewer utility providing sewer service in its assigned service area in the Linville Hills Subdivision located in Moore, Spartanburg County, South Carolina and the Madera Village Subdivision in Spartanburg, Spartanburg County, South Carolina. The Commission is vested with authority to regulate rates of every public utility in this state and to ascertain and fix just and reasonable rates for service. S.C. Ann. §58-5-210, *et. seq.* Moore Sewer's operations in South Carolina are subject to the jurisdiction of the Commission.

2. Moore Sewer provides service to 469 residential customers.

3. Moore Sewer's prior rates were approved in Docket No. 2003-41-S dated August 5, 2003.

4. Moore Sewer requested in its Application: (1) rate relief and approval of a new schedule of Proposed Rates for the monthly sewerage collection service that Applicant provides to its customers within its authorized service area in South Carolina, (2) to modify certain non-recurring charges as set forth in the schedule of Proposed Rates and (3) to collect a flat rate of \$250.00 as a deposit from its customers in order to minimize negative financial consequences of non-payment while ensuring that customers continue to receive reliable service.

5. Moore Sewer also requested in its Application that the Commission waive the part of 10 S.C. Code Ann. Regs. 103-531.1(A) that limits the "maximum deposit" to "an amount equal to an estimated two (2) months (60 days) bill for a new customer" or "an amount equal to

the total actual bills of the highest two (2) consecutive months based on the experience of the preceding twelve (12) months....”.

6. The appropriate test year period for this proceeding, selected by the Applicant, is January 1, 2016 through December 31, 2016.

7. The Commission will use operating margin in determining and fixing just and reasonable rates.

8. The rates and charges adopted herein produce additional operating revenue of \$97,514.

9. The revenues and expenses approved herein establish a fair and reasonable operating margin of 23.86%.

10. We hereby permit Moore Sewer to collect a flat fee customer deposit of \$250.00.

V. CONCLUSIONS OF LAW

Based upon the Review of the Evidence and Evidentiary Conclusions, the Findings of Fact as set forth herein, and the record of the instant proceeding, the Commission makes the following Conclusions of Law:

1. Moore Sewer is a public utility as defined in S.C. Code Ann. § 58-5-10(3) and as such is subject to the jurisdiction of this Commission.

2. The appropriate test year for this proceeding is the twelve-month period ending December 31, 2016.

3. Based on the information provided by the parties, the Commission concludes that appropriate rate-setting methodology to use as a guide in determining the lawfulness of Moore Sewer’s proposed rates and for the fixing of just and reasonable rates is operating margin.

4. In order for Moore Sewer to have the opportunity to earn the 23.86% operating margin, found fair and reasonable herein, Moore Sewer must be allowed additional revenues of \$97,514.

5. The rates and charges as set forth in Order Attachment 1 are approved for use by Moore Sewer and are designed to be just and reasonable without undue discrimination and are also designed to meet the revenue requirements of the Company.

6. The Commission also waives the part of 10 S.C. Code Ann. Regs. 103-531.1(A) that limits the “maximum deposit” to “an amount equal to an estimated two (2) months (60 days) bill for a new customer” or “an amount equal to the total actual bills of the highest two (2) consecutive months based on the experience of the preceding twelve (12) months....”. Accordingly, Moore Sewer may collect a flat rate deposit amount of \$250, subject to the conditions outlined above, as well as Moore Sewer’s compliance with the remainder of 10 S.C. Code Ann. Regs. 103-531.1(A).

7. Pursuant to S.C. Code Ann. § 58-5-720 (Supp. 2015) and 10 S.C. Code Ann. Regs. 103-512.3 (2015), Moore Sewer shall post a performance bond of \$135,000 for its sewer operations.

IT IS THEREFORE ORDERED THAT:

1. The rates and charges as set forth in Order Attachment 1 are both fair and reasonable and will allow Moore Sewer to continue to provide its customers with adequate wastewater services.

2. The rates, charges, terms and conditions approved herein shall be effective for service rendered by the Company on or after the date of this Order.

3. Moore Sewer shall file a final schedule of the rates, charges, terms, and conditions with the Commission and provide a copy to ORS prior to rates and schedules being put into effect for service rendered. Moore Sewer is to provide thirty (30) days' advance notice of the implementation of these rates to customers of its wastewater services prior to the rates and schedules being put into effect for service rendered. The schedules shall be deemed to be filed with the Commission pursuant to S.C. Code Ann. § 58-5-240.

4. Moore Sewer may collect a customer deposit of \$250 subject to the conditions described herein. 10 S.C. Code Ann. Regs. 103-531.1(A) is waived to the extent such regulation limits the "maximum deposit" to "an amount equal to an estimated two (2) months (60 days) bill for a new customer" or "an amount equal to the total actual bills of the highest two (2) consecutive months based on the experience of the preceding twelve (12) months....".

5. Moore Sewer shall file and maintain a performance bond in the amount of \$135,000 for wastewater operations pursuant to S.C. Code Ann. § 58-5-720.

6. Moore Sewer's books and records shall be maintained according to the National Association of Regulatory Utility Commissioners ("NARUC") Uniform System of Accounts. Moore Sewer is directed to make any necessary adjustments to its accounting system to conform to the NARUC Uniform System of Accounts.

7. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

Swain E. Whitfield, Chairman

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ATTEST:

Randy Randall, Vice-Chairman